

APPEAL NO. 041391
FILED AUGUST 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 11, 2004. The hearing officer determined that: (1) the compensable injury of _____, does not extend to include a disc herniation at L4-5, disc protrusion at L5-S1, aggravation of preexisting bipolar disorder, aggravation of preexisting diabetes, aggravation of preexisting thyroid disease, and gastrointestinal disorder; and (2) the appellant (claimant) did not have disability resulting from the compensable injury of _____. The claimant appeals these determinations on sufficiency of the evidence grounds. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The claimant appeals Finding of Fact No. 1(D), which provides "Claimant did not have disability from October 21, 2000, through May 25, 2001." Our review of the record reveals that the parties stipulated to this finding of fact at the hearing below. Section 410.166 provides that an oral stipulation or agreement of the parties that is preserved in the record is final and binding. Accordingly, we perceive no error.

The hearing officer did not err in making the complained-of extent-of-injury and disability determinations. The claimant had the burden of proof on these issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant also requests that the Appeals Panel "recommend approval and coverage of injection therapies as recommended by Dr. K and/or any such treatments or medications for the lumbar injury which may be deemed medically necessary." The claimant's request is a matter for the Medical Review Division of the Texas Workers' Compensation Commission. See *generally* Section 413.031(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.305 (Rule 133.305).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge